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C O N F I D E N T I A L SECTION 01 OF 03 YEREVAN 001038

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SUBJECT: OPPOSITIONISTS' "COUP" TRIAL OFF TO CHAOTIC START

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Classified By: DCM Joseph Pennington, reasons 1.4 (b,d).

SUMMARY

¶1. (C) The controversial trial of seven prominent opposition figures charged with an attempted coup d'etat during Armenia's post-election unrest has gotten off to a chaotic start. After a relatively peaceful first hearing on December 19, the second hearing on December 22 nearly erupted into fisticuffs between relatives of the defendants and dozens of plainclothes law enforcement personnel who infiltrated the audience, thereby preventing defendants' relatives and supporters from entering the courtroom. There were also allegations that one of the seven defendants had been beaten in his prison cell before the hearing. At one point the judge abruptly adjourned the session because the defendants refused to stand when he entered the courtroom. The Ambassador registered our concerns with the Presidency on December 24, and will meet with the Prosecutor General on December 28. Embassy has also requested access by post's human rights officer to the detainees who were allegedly beaten. The next hearing is scheduled for December 27. END SUMMARY.

"THE CASE OF SEVEN" FINALLY UNDERWAY

¶2. (C) Amid growing international pressure, the controversial "Case of Seven" finally got underway on December 19 in a Yerevan criminal court. The seven accused include the most prominent members of the opposition that backed the presidential election bid of opposition leader and former president Levon Ter-Petrossian (LTP) in February. The seven have been accused of provoking deadly street clashes in an alleged attempt to organize a coup d'etat following the February 19 presidential elections.

¶3. (C) The seven defendants include former Foreign Minister Alexander Arzumanyan, who managed LTP's election campaign, and three influential opposition parliamentarians who were stripped of their parliamentary immunity during the State of Emergency decreed by ex-President Robert Kocharyan on March ¶1. They have all been charged with organizing "mass riots accompanied by murders" (punishable up to 12 years of imprisonment) and attempting to "usurp state authority by force" (punishable up to 15 years).

CHAOS, ALLEGATIONS, & ADJOURNMENT

¶4. (C) After the first hearing in which the court gallery was filled with relatives of the defendants cheering them on, at the second hearing Emboffs spotted at least twenty police and

security forces in civilian clothing who had joined the audience, crowding out relatives who wanted to be seated. Even before the hearing began, heated arguments broke out between the two groups, with some nearly coming to blows. The chaotic atmosphere resulted in a 40-minute delay of the opening of the hearing. One heavysset policeman sitting near Emboffs claimed he was a victim of crowd violence on March 1, and was attending the trial in that capacity.

15. (C) When the hearing finally started, it lasted less than ten minutes. The judge read through guidelines for the trial, including the requirement that all stand when the judge enters the courtroom. He then noted that defendant Grigor Voskerchian was ill, and therefore not present, at which point several defendants shouted that he had been assaulted in jail earlier that morning. The judge immediately called another 30-minute recess. According to RFE/RL and opposition representatives, Voskerchian's lawyer said after the hearing that his client had been assaulted in his prison cell by the commander of a special security force. The lawyer claimed that the officer repeatedly hit his client in the face after finding out Voskerchian was one of the oppositionists charged with attempting to seize power by force.

16. (C) David Shahnazarian and Levon Zurabian, senior representatives of the opposition Armenian National Congress (ANC) led by LTP, called on Ambassador December 24 to register their concern about the beating. Shahnazarian claimed that two other oppositionists (not in the "trial of seven") had been beaten at the same time, but in different cells at the same prison, by the same special forces unit. The special forces allegedly cleared other inmates from the cells before attacking the oppositionists. Shahnazarian and Zurabian called such attacks "unprecedented" in Armenia, and interpreted the move as an attempt "to break the spirits" of

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the detainees, as well as an indicator that the authorities felt vulnerable after the first hearing, which Zurabian described as "a triumph for the defense." Shahnazarian and Zurabian expressed concern that the authorities could resort to more beatings over the holidays, when most of Yerevan's diplomatic community is on vacation.

17. (C) Shahnazarian left a letter with the Ambassador noting the opposition's concerns, and said the ANC had sent the same letter to senior officials in the OSCE and Council of Europe, as well as to the co-rapporteurs from PACE who are monitoring the situation in Armenia. As they left the Embassy, Shahnazarian and Zurabian asked that the embassy send a message to the authorities that such conduct is unacceptable.

(NOTE: The Ambassador subsequently phoned the Presidency to register concerns about the alleged beatings, scheduled a December 29 meeting with Armenia's Prosecutor-General to discuss the issue, and sent a diplomatic note requesting access for post's Human Rights Officer to meet with the three detainees who were allegedly beaten. END NOTE.)

18. (C) Although the judge finally reconvened the proceedings, he then abruptly adjourned the trial until December 27 when the defendants defiantly failed to stand when he entered the courtroom. The judge also removed the media from the court gallery for the second hearing, placing them in an adjacent room equipped with TV monitors. (NOTE: The judge had granted the defense's motion to allow unfettered media access to the courtroom for the duration of the trial during the first hearing on December 19. END NOTE.) Shahnazarian and Zurabian interpreted this as a negative development, and feared it was the first step toward a possible decision to hold the trial behind closed doors, which authorized by law if the judge rules that the proceedings are being unduly hindered by disruptions.

1ST HEARING: OVATIONS, OUTBURSTS, AND DEFECTIONS

¶9. (C) The trial began on December 19 amid heavy security in and around the courthouse. Hundreds of opposition supporters gathered outside, chanting opposition slogans and carrying photos of the defendants. Inside the court room a wall of bullet-proof glass separated the trial participants from the audience. In the audience gallery, relatives of the defendants were joined by the media, prominent opposition leaders, OSCE/ODIHR observers, human rights activists and Armenia's Ombudsman. The audience greeted the defendants with standing ovations and cheered every time they made a statement. The defendants, who have been in pre-trial detention for nine months, appeared to be healthy and in good spirits, with the exception of MP Hakob Hakobian and Grigor Voskerchian, who clearly showed the effects of their incarceration. (NOTE: MP Hakobian was hospitalized before the trial due to a serious health condition, and according to Voskerchian, his wife, her husband's health has deteriorated in prison. END NOTE.)

¶10. (C) The first hearing quickly bogged down amid calls by the defense for Judge Mnatsakan Martirosian to recuse himself. The defense argued that he could not be impartial given that he had ruled for the prosecution in four previous March 1-related cases. They also argued that he could not have adequately familiarized himself with the 12,000 pages of case materials in the 9 days he had to prepare for the case. Martirosian twice refused to abandon the case, and adjourned the trial until December 22 to rule on a third recusal request.

¶11. (C) In a development used by the opposition to support its claims that the trial is a sham, several of the "victims" identified by the Prosecution declared their support for the defense at the first hearing. These were family members of the eight civilians who lost their lives on March 1-2, whose death the Prosecution has pinned on the defendants. The relatives, and the human rights activists representing them, also supported the appeals for recusal made by the defense. MP Armen Martirosian from the opposition Heritage party told Emboffs afterwards that he also planned to make an appeal to remove himself as a victim from the case. (NOTE: Martirosian was stabbed in the back on March 1 while shielding a police officer from an as yet unidentified assailant. END NOTE.)

VIEWS ON THE TRIAL

¶12. (C) Views of the trial by opposition activists and defense attorneys were predictably negative. Aram Sargsian, head of the opposition Republic Party, told Emboffs that he

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expects the authorities to hold a speedy trial out of fear of the weakness of their case. Former judge Pargév Ohanian, who was dismissed by ex-President Kocharian in late 2007 for what many pundits viewed as political retaliation for Ohanian ruling the wrong way on a sensitive case, described the trial as a "comedy," and predicted that the authorities would not prolong it. ANC Coordinator Levon Zurabian told Emboff that the trial would quickly become a trial of the regime, and not of the charged oppositionists. He argued that the authorities would seek to avoid being embarrassed by keeping the trial short.

¶13. (C) Stepan Safarian, another Heritage MP, said that in spite of the weakness of their case, the authorities are afraid to release the three MPs because of what they fear the MPs will do when they return to Parliament. Safarian added that the recent PACE draft resolution from the organization's Monitoring Committee had compounded the authorities' predicament. The Ombudsman confided to Emboffs that he feared the authorities planned to use any pretext, particularly baited outbursts by the defendants, to control

the course of the trial.

¶14. (C) Hovik Arsenian, lead counsel for the defense, told Emboffs that he had offered prosecutors during one of the recesses a face-saving means for releasing his defendants and avoiding possible sanctions from PACE. Arsenian proposed that the authorities replace the judge, allow the new judge to drop the charges of usurping power, release the defendants on bail, and then continue the trial focusing on the charges of mass disturbances. Arsenian said the prosecutors did not respond to his proposal.

COMMENT

¶15. (C) One of the most controversial court trials since Armenia's independence, the "Case of Seven" risks aggravating the long-festering wounds from February's presidential election and fatal March 1-2 violence. While it is clear that the opposition yearns for this scenario, it is the authorities who hold the decisive hand, and who will likely leave nothing to chance. Judging by the second hearing, developments could turn sour fast. We will continue to press at the highest levels of the GOAM for a credible, open, transparent process that will begin to restore the reputation of Armenia's judiciary, which has taken a tremendous beating in the aftermath of March 1. End Comment.
YOVANOVITCH